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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/226,939	01/08/1999	JOHN K. VINCENT	063170.6289	8916

5073 7590 03/09/2006

BAKER BOTTS L.L.P.
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DALLAS, TX 75201-2980

EXAMINER

LY, ANH

ART UNIT	PAPER NUMBER
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2162

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/226,939

Applicant(s)

VINCENT ET AL.

Examiner

Anh Ly

Art Unit

2162

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: 52-59, 64 and 69.
- Claim(s) objected to: _____.
- Claim(s) rejected: 40-51, 60-63 and 65-68.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 01/27/2006
13. ☐ Other: _____.

**JEAN CORRIEUS
PRIMARY EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because:

Examiner maintains the rejection for claims 40-51, 60-63 and 65-68. Examiner allows claims 52-59, 64 and 69. If independent claims 40, 60 and 65 are combined dependent claims 41, 42, 43 and 45 into 40; dependent claims 61, 62, and 63 into 60; and dependent claims 66, 67 and 68 into 65, then these independent claims are in a good condition for allowable.

Applicants argued that, "the finality of Office Action is improper." (Page 13, lines 8-9). Examiner made the last OA is Final Action because the old the claims 1-39 were cancelled and the new set of claims 40-69 were added from which it required further consideration and searches.

Applicants argued that, "McKeeman-McPerson combination fails to teach or suggest or disclose "recursively querying a database for one or more dependencies of procedural code objects stored in the database." (Page 14, lines 25-26).

McKeeman et al. (hereinafter McKeeman) of 5,325,531 teaches every time RCASE receives a request or query to compile a source buffer, such as a developer requests a checkpoint in order to generate and store fine grain dependency graphs (see fig 6b, item 60, col. 17, lines 47-67 and using the recursive parser (resursive descent or LALR) to stored the object in the tables or database (col. 23, lines 1-57, and col. 18, lines 20-40; also see col. 13, lines 52-67). While McPherson, Jr. et al. (hereinafter McPherson) teaches the execution og SQL queries involving resursion and table queries in a relational database management system, and a directed acyclic graph (abstract, figs. 4 & 6).

Applicants argued that, "McKeeman includes no mention of a database and fails to disclose how these fine grain dependency graphs are even generated." (page 15, lines 15-16).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "how these fine grain... are even generated") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). However, McKeeman teaches source codes are stored in the tables or database and object code created is maintained in memry for reducing delays (see figs. 1 & 2, col. 5, lines 18-67, col. 6, lines 1-67; also see fig. 7, conde generator in the RCASE environment col. 19, lines 1-67, col. 20, lines 1-67, col. 21, lines 1-67 and col. 22, lines 1-25)